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second electrode; and a third electrode positioned between the liquid crystal layer and the switchable optical layer.

In a first embodiment, the non-transparent state of the switchable optical layer is a reflective state. In a second embodiment the non-transparent state of the switchable optical layer is a selectively emissive state.

Liebowitz et al. discloses in Fig.4, a display device 10c and a liquid crystal layer 16 sandwiched between an upper electrode and a common electrode 24 and an electroluminescent (EL) layer 26 sandwiched between the common electrode 24 and bottom electrode 28.

In Liebowitz, the EL layer 26 is the only layer that could be the 'switchable optical layer'. The EL layer is either OFF (transparent) or ON (emissive). There is no disclosure of a non-transparent state that is reflective or one that is selectively emissive.

In the present invention "the pixel switches 130 supply the voltage or current necessary to enable overlying portion of the switchable optical layer to emit light -- by the selective enablement of the pixel switches 130, selective portions of the switchable optical layer 124 will emit light to produce an image on the display device 120." (page 9, lines 5-9) In Leibowitz, when EL layer 26 is ON, the entire layer is emissive; not just selective pixels as in the present invention.

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Leibowitz fails to disclose a switchable optical layer with a non-transparent state that is either reflective or selectively emissive.

Weber et al. discloses a pixellated LCD display (Fig.9) comprising a liquid crystal 142, a switchable translector 136 and a backlight 132. If the Examiner interprets the "switchable translector" 136 (col.9, line 26) to be the 'switchable optical layer' then, there is no disclosure of the switchable optical layer being positioned above and connected to a second electrode as there is no underlying electrode that is separate to the switchable translector 136. There is also no disclosure that the switchable translector 136 is selectively emissive.

If the Examiner interprets the switchable optical layer as the "liquid crystal device" 146 (col.12, line 15), then there is no disclosure of the switchable optical layer being positioned above and connected to a second electrode as there is no underlying electrode that is separate to the liquid crystal device 146. Also, according to this interpretation the reflective polarizer 148 is not part of the 'switchable optical layer'. From Figure 11 it is clear that the reflective polarizer 148 is the only component that is reflective. Therefore, in this interpretation there is no disclosure of a switchable optical layer that is reflective or selectively emissive.

If the Examiner interprets the liquid crystal material 154 as "the switchable optical layer" (col.12, line 10), then the switchable optical layer is positioned above and connected to

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a second electrode 158, however this interpretation does not provide the switchable optical layer with a transparent and non-transparent state or a non-transparent state that is reflective or selectively emissive.

It should now be apparent that the present invention as defined by the independent claims is therefore not disclosed in the cited documents and is novel.

As both documents do not disclose a switchable optical layer that is positioned above and connected to a second electrode and that has a transparent state and non-transparent state, where the non-transparent state is a reflective state or a selectively emissive state, it is not possible to combine the documents to arrive at the present invention.

The present invention as defined by the independent claims is therefore non-obvious in view of the prior art.

The Examiner has alleged in paragraph 6 of the office action that we argued that the prior art does not teach or suggest a "switchable optical layer". This is incorrect. We argued that the prior art does not teach or suggest "a switchable optical layer that is positioned above and connected to a second electrode and that has a transparent state and non-transparent state, where the non-transparent state is a reflective state or a selectively emissive state".

The Examiner alleges, by quoting Merriam-Webster's Collegiate Dictionary (10th Ed.) "the definition of 'reflect' is 'to give back or exhibit likeness'. Thus, when something phosphoresces

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- it take in light and 'gives back' the likeness of light, it clearly satisfies Applicant's claimed 'reflective state'."

The Examiner's quoted definition of "reflect" does not correspond to the definition given in Merriam-Webster OnLine which states that one of the definitions of "reflect" is "to give back or exhibit as an image, likeness or outline". The OnLine definition of the word "reflect", excludes phosphorescence which does not take in light, and give back as an image the likeness of light.

The Examiner's comments in paragraph 6 are in contradiction to what the Examiner has previously stated in the office action dated December 1, 2004. In paragraph 1 of that office action, the Examiner stated "In the present case, species 2 and 3 do not contain a commonality of operation, function or effect since one's [sic] non-transparent state is reflective and the other is selectively emissive." The Examiner clearly understood that a reflective state and a selectively emissive state do not share any commonality of operation, function or effect. Therefore, by alleging that phosphorescence in Leibowitz satisfies the claimed "selectively emissive" state in the last office action and the claimed "reflective state" in this office action, the Examiner is contradicting himself.

Furthermore, MPEP 2111 states that "claims must be given their broadest reasonable interpretation consistent with the specification." MPEP 2111.01 also states "the words of a claim must be given their "plain meaning" unless they are defined in the specification". Therefore, contrary to what the Examiner states, "since neither Applicant's specification

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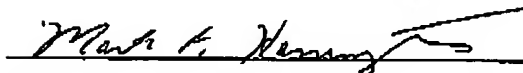
or claims preclude such an interpretation", MPEP makes it clear that an interpretation cannot be justified simply because the specification or claims do not preclude it, indeed the specification and claims must define a word if a meaning is to be given that is anything other than its plain meaning. There is nothing in the specification to suggest that "reflective" should be given anything other than its plain meaning, which is clearly excludes phosphorescence.

MPEP 2111.01 continues "In the absence of an express intent to impart a novel meaning to the claim terms, the words are presumed to take on the ordinary and customary meanings attributed to them by those of ordinary skill in the art." A person of ordinary skill in the art, in view of the specification would interpret the term "reflective state" in claim 1 to mean a state in which passage of light is prevented and caused to change direction. Therefore, phosphorescence cannot be interpreted to satisfy the claimed reflective state as alleged by the Examiner.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issue remain, the examiner is invited to call applicant's attorney at the telephone number indicated below.

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Respectfully submitted,


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